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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,719	02/06/2004	Matthew T. Taylor SR.	TAY-04-001	8298
40816	7590	10/31/2006		
BRADLEY D. GOLDIZEN 505 SOUTH INDEPENDENCE BOULEVARD, SUITE 102 VIRGINIA BEACH, VA 23452			EXAMINER OMGBA, ESSAMA	
			ART UNIT	PAPER NUMBER
			3726	

DATE MAILED: 10/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/773,719

Applicant(s)

TAYLOR, MATTHEW T.

Examiner

Essama Omgba

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 19 and 20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7 and 21 is/are allowed.
- 6) ☒ Claim(s) 14 and 15 is/are rejected.
- 7) ☒ Claim(s) 8-13 and 16-18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of the invention of Group I, claims 1-17 and 20, in the reply filed on September 13, 2006 is acknowledged. The traversal is on the ground(s) that a search of the process would necessarily encompass the prosthetic that is created by the process. This is not found persuasive because the process is a retrofitting process and as such does not require a search of the product. Furthermore in product-by-process claims, the patentability of the product is based on the product itself and not on the method used to produce the product, thus the examination of the product does not require a search for its method of production.

The requirement is still deemed proper and is therefore made FINAL.

### ***Drawings***

2. The drawings are objected to because the leading line for element "23" in figures 3B and 3C should extend to the element it is designating. Also the leading lines labeled "A" in figure 3B should be "arrows" as disclosed in the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary,

the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. Figures 1, 2 and 3A should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

4. The abstract of the disclosure is objected to because the phrase "is disclosed" in line 2 should be deleted. Correction is required. See MPEP § 608.01(b).

5. The disclosure is objected to because of the following informalities: on page 3, line 9, "ormuscle" should read or --muscle--; on page 5, line 3, "hoe" should read

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--hole--; on page 11, lines 12-14, it is not clear what element is "opening 32". A part of the "latex sheath" is labeled "32" in figure 4 but it is not clear if that represents an "opening".

Appropriate correction is required.

### ***Claim Objections***

6. The numbering of claims is not proper: there two claims numbered "9", therefore misnumbered claims 9-20 have been renumbered 10-21.

7. Claims 8-18 are objected to because of the following informalities: in claim 8, line 1 and claim 17, line 2, --a-- should be inserted before "new"; and in claim 10, line 9, "incto" should read --into--, and in line 13, "a" first occurrence should read --the--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 14 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 14 and 15 recite the limitation "the space creating material" in line 2 of each claim. There is insufficient antecedent basis for this limitation in the claims.

***Allowable Subject Matter***

10. Claims 1-7 and 21 are allowed.
11. Claims 8 and 9 would be allowable if rewritten to overcome the objection(s) set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
12. Claims 10-13 and 16-18 would be allowable if rewritten or amended to overcome the objection(s) set forth in this Office action.
13. Claims 14 and 15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
14. The following is a statement of reasons for the indication of allowable subject matter: for claims 1 and 10, the prior art does not teach a process for reshaping or refitting an interior of a socket of a prosthetic device, the method comprising depositing a moldable curable material into an interior of a socket of a prosthetic device, inserting an end of a residual limb covered by a sheath into the socket of the prosthetic device to cause the moldable curable material to conform to the shape of the end of the residual limb, removing the residual limb from the socket after the moldable material; has assumed the shape of the end of the residual limb to create a socket having a substantially complementary shape of the end of the residual limb, these in combination with the rest of the limitations in the claims. For claim 21, the prior art does not teach a process for shaping an interior of a socket of a prosthetic device, the method comprising

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depositing moldable curable material onto an exterior surface of a latex sheath placed over an end of a residual limb, placing a space creating material between a bottom of the socket and the latex sheath, inserting the sheath covered residual limb into the socket with the moldable curable material, these in combination with the rest of the limitations in the claim.

### ***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Essama Omgba whose telephone number is (571) 272-4532. The examiner can normally be reached on M-F 9-6:30, 1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bryant can be reached on (571) 272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Essama Omgba  
Primary Examiner  
Art Unit 3726

eo  
October 25, 2006